

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

June 24, 2004

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, June 24, 2004, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Ronald Marnell, Chair; Morris K. Dunlap, Vice-Chair; Darrell Downing; John W. McKay Jr. (Out @ 2:53); Bill Johnson; Bud Hentzen (Out @ 2:53); Bob Hernandez; Elizabeth Bishop; M.S. Mitchell; Harold Warner Jr.; Denise Sherman (In @ 2:22); Frank Garofalo and Gary K. Gibbs. James Barfield was not present. Staff members present were: John Schlegel, Director of Planning; Dale Miller, Current Plans Supervisor; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; David Barber, Land Use Supervisor; and Rose Simmering, Recording Secretary.

❖ PLANNING COMMISSION ITEMS

1. No minutes to approve
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❖ SUBDIVISION ITEMS

2. **Consideration of Subdivision Committee recommendations**

- 2-1. **SUB2003-147 – One-Step Final Plat – PERRY GEORGE ADDITION, located on the south side of MacArthur, west of Tyler.**

NOTE: This site is located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned SF-20, Single-Family Residential and will be converted to SF-5, Single-Family Residential upon annexation.

STAFF COMMENTS:

- A. Prior to this plat being forwarded to the City Council, the applicant shall apply for annexation to Wichita. If the annexation is completed prior to the plat's submittal for City Council review, only City Council approval and not County approval will be necessary.
- B. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **City Environmental Health Department** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval. **A site plan is needed to determine proper location of required soil and groundwater testing.**
- C. **City Water and Sewer Department** requests a petition for future extension of sanitary sewer and City water services.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. **City/County Engineering** needs to comment on the status of the applicant's drainage plan. **County Engineering received drainage plan and will forward to City Engineering for review.**
- F. The Applicant needs to verify that the parent property to the south is not landlocked.
- G. The plat's text shall denote the creation of the floodway reserves in addition to including the standard floodway language.
- H. **Traffic Engineering** needs to comment on the access controls. The plat denotes one opening along 39th St. South. **Traffic Engineering has requested 130 feet of complete access control from the west property line in accordance with Access Management standards. The Applicant shall meet with Traffic Engineering to discuss potential shared access with the property to the west; or in the alternative an offsite dedication of complete access control.**
- I. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- J. The Applicant is advised that if platted, the building setbacks may be reduced to 25 feet.
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- M. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- T. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. SBC has requested additional easements.
- U. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

NEIL STRAHL Planning staff This application had been deferred a couple of times by the applicant. He informed staff that he had been having second thoughts and possibly considering not platting the property, due to some financial issues but we have been informed today that he wanted to proceed today for approval.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **BISHOP** seconded the motion, and it carried (12-0).

2-2 SUB2004-62 – One-Step Final Plat – TYLER'S LANDING COMMERCIAL ADDITION, located on the southeast corner of 37th Street North and Tyler Road.

NOTE: The site has been approved for a zone change (ZON 2003-44) from SF-5, Single-Family Residential to LC, Limited Commercial subject to platting. The Tyler's Landing Commercial Plaza CUP (CUP 2003-48, DP-267) was also approved for this site.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. City Engineering needs to comment on the need for other guarantees or easements. An off-site utility easement is needed.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. An off-site drainage easement is needed.
- D. In accordance with the CUP, the following transportation improvements are required:
 - a. **The applicant shall provide a guarantee for right-turn accel/deceleration lanes along the perimeter of the property.**
 - b. The applicant shall provide a guarantee for center left-turn lane along 37th Street North and Tyler Road.
 - c. The developer shall guarantee 12-½ percent share of cost for the intersection signalization at Tyler Road and 37th Street North.
 - d. Provision of a traffic impact study is not required if the applicant accepts the above recommendations

- E. The plat proposes three openings along both 37th St. North and Tyler Road. **In accordance with the CUP approval, the major entrance on Tyler Road shall be located across from the major entrance to Maize South Middle School. Traffic Engineering requests that the access opening for Lot 5 is located within the east 60 feet.**
- F. The joint access easements shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- G. **City Engineering** will meet with the Applicant regarding the need for participation in the existing paving petition for 37th St. North.
- H. The vicinity map needs to be corrected to denote 37th Street North.
- I. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- J. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- K. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA -NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- L. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- M. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- U. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy and SBC have requested additional easements.**
- V. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MITCHELL I want to question Condition C. The developer shall guarantee 12-1/2% share of cost for the intersection signalization at Tyler Road and 37th Street North. Also, Condition D, the provision of a traffic impact study is not required if the applicant accepts the above recommendations. I can't find anything in the Access Management Policy or in the earlier discussions and processes that

went into the development of the Access Management Policy that addresses signalization cost or guarantees thereof or substituting those guarantees for a traffic study, if a traffic study is needed in an area.

It is my position that they won't be able to get a like guarantee from the City of Maize or the Maize School District across the street to the southwest, and therefore the percentage is not likely to have any real bearing on the eventual cost if that intersection has to be signalized.

SCOTT LOGAN, Traffic Engineer, The need for a traffic study is included in the Access Management Policy as adopted by the City and adopted by the MAPC. We have brochures of the Access Management Regulations, and on number 3, Traffic Impact Studies it says, "Development plans which generate 500 trips in a peak hour. A more detailed impact report will be required to include level-of-service factors along abutting arterial street and intersection." This development may have been in the pipeline, and being considered before the Access Management policy was adopted. I don't have notes indicating when we met with developers. We generally have some leeway in terms of what we can do, and what we can't do. It could have been what the case was when we deviated from this policy and waived the requirements for the impact study to require signalization. This is 12 1/2% signalization, which we have required in the past five years from commercial development at corners at major intersections.

MITCHELL The Traffic Impact Studies that you just read don't tell me that signalization is part of what would be coming out of a traffic study if the impact was such that 500 trips required detailed studies. There's a lot more people that know a lot more about traffic controls than I do, and I think in all of that process, if signalization was to be part of what was to be a requirement and a policy, that would be in that policy, and I can't find signalization anywhere.

LOGAN Signalization in terms of off-site improvements in Article 8-103 (m), it indicates that there is a right to require off-site improvements that are necessary for the development of the proposed subdivision, and such off-site improvements may include but shall not be limited to installation of signalization, channelization, street construction, etc., and that is included in your Subdivision Regulations.

MITCHELL What you read was such off-site improvements may include an installation of signalization or channelization?

LOAN yes, page 8-8, Commissioner.

MITCHELL That does say that the MAPC may require those. But I thought I heard you say that the Traffic Engineer had required 12 1/2% in the past.

LOGAN As working these issues out with the Commission in the past years, the 12 1/2% has been the past practice. That has been ongoing for commercial developments. Now we have been challenged with a residential development maybe six months ago, and with that there is other issues, as you may know.

MITCHELL Scott, you and I discussed back in April, about the difficulty you were having in funding signalization, and two of us offered that if you would give us a list of those areas where you saw future signalization to be not funded with the present policy, we would do what we could do to help you. I have not received a response from that. I was hoping that we could develop a policy that everyone understood so we wouldn't have to have these ad hoc requirements or recommendations made by the Traffic Engineer each time a unique subdivision process came up, and I still think that would be the better way to do it.

LOGAN We had put together a study, however I cannot disclose the study because it has not gone to WCC for its review yet. According to our AR provisions, staff cannot present a study like this to a group before they have reviewed it. This catches them off guard, and we may be presenting things that they don't want us to present. So we have researched this, and put some alternatives together but without the City Manager's approval, I cannot present this to the Commission for input quite yet. It has been considered by the Public Works Director and the Acting City Manager, but I think they wanted to wait for the City Manager to be onboard.

MILLER On this particular case, the traffic improvements were agreed to, and are part of the CUP Ordinance approval, and so they have already gone to the Council. It has been approved, and it is in the ordinance, and the only way to delete that would be to send that whole zone case back through and have the Council delete it on this particular case. I understand what Mr. Mitchell's point about the bigger policy issue is, but on this particular one, I wanted to bring this up.

MITCHELL It was not my intent to ask for a vote on this issue. I understand that it was in the CUP, and if I saw it and didn't read it, then that is my fault. One thing that I didn't want to go ahead to add, I am not sure if that it is a good tradeoff to trade a 12 1/2% guarantee, which will go to the cost of the Subdivision for a traffic study which would be the cost to develop.

LOGAN Mitch, we did talk, and I agree we talked about giving you a list, but about every two years we go through the CIP process, and that had ended before we had talked, and it is two years down the road before I can provide a list, and right now our traffic signals have been prioritized by the WCC, and our plan for the next two years.

MARNELL I assume what you are working on will be coming back as amendments to the Subdivision Regulations?

LOGAN Yes, I am hoping that we can come back on this issue because it keeps being brought up, and I think for your satisfaction and our satisfaction, I think, we initiated this to have a fair policy.

MARNELL That is my interest in that it ends up being accurate and fair so that you don't have the same thing applying to a very small development as you would something that is a huge development with a lot of commercial traffic that is really influencing it. You put something like that on these intersections, and the corner lot that drives it, and then you will have gaming the rules.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, HENTZEN seconded the motion, and it carried (12-0).

2-3. SUB2004-63 – One-Step Final Plat – HAAG INDUSTRIAL PARK SECOND ADDITION, located south of 31st Street South and on the west side of Ridge Road.

NOTE: This is a replat of the Haag Industrial Park Addition. The replat includes the vacation of two streets. The site is subject to a Protective Overlay (P-O #85) addressing permitted uses.

STAFF COMMENTS:

- A. Petitions have been provided with the Haag Industrial Park Addition for sewer and water improvements. **City Engineering has requested new guarantees.**
- B. **City Engineering** needs to comment on the status of the applicant's drainage plan. **County Engineering requests a drainage plan is needed. The final plat should depict established bank lines of Cowskin Creek. City Engineering has requested detention or an off-site drainage easement. A revised drainage plan is requested. A drainage easement is needed. The minimum pad on the drainage plan needs to be corrected to reference Lot 2, Block A.**
- C. **Traffic/County engineering** needs to comment on the access controls, particularly the need for minimum separation between openings. The plat proposes three openings along Ridge Road. **An access control note shall be included on the plat that the minimum distance between full turning movement drives shall be 400 feet and the minimum distance between a right-in/right-out drive and either another right-in/right-out drive or a full movement drive shall be 200 feet.**
- D. **County engineering** requests a new guarantee for left and right turn lanes onto Ridge Rd.
- E. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- F. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- G. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- H. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay (referenced as P-O #85) and its special conditions for development on this property.
- I. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA -NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should

contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy and SBC have requested additional easements.**
- T. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MITCHELL On the subdivision plat that you showed on the screen last Thursday, I couldn't see that there is any mapped floodplain shown on this plat, and it is my understanding that the southwest corner actually comes down to the edge of Cowskin Creek. The 1986 study did map a considerable area on both sides of the center of the channel, and there has been a detailed study done in 1997. Although it has not been adopted, it is the best information available. I don't know if the contours on this drawing are at City datum, and Subdivision Regulations require that any building elevations or building controls be listed in NGVD, which is the standard for flood insurance program.

There is a standard difference between City datum and NGVD, but it is not always the same, so if you have two elevations that are shown for building controls, it is my opinion that there ought to be a local differential to be sure one doesn't accidentally build too low.

STRAHL In regards to the second question, the City Engineer has informed me that they have been requesting the topographical plans be shown in City datum. There may be a transition in the future to NGVD but at this point the policy is City datum.

In regards to the first part of your question, regarding the floodplain, we do have Vicky Huang here to address that. VICKY HUANG I was actually here to answer any NGVD questions. As most of you are aware that all the City public improvements, except for the part that is the east part of town, is all in City datum, and this has been in existence for years and years. Our sewer, streets, waterlines, and everything are in City datum, and so I am not requesting that. I think to have two parallel systems does cause confusion, and we are looking into switching over. Mainly it has to convert the order and the existing records to the NGVD. I think Mitch and the City Engineer have a meeting scheduled for tomorrow for this discussion.

As far as the second part of the question, that little notch to the west is platted as a reserve, and is probably all in the floodway or floodplain, but I thought the floodway itself is to the west of it and not part of this plan. I don't know if the platting engineer is here to address that.

We can check on it. If it is in the floodplain, then it really doesn't need to be shown on the plat, but if it is the regulatory floodway, then it should be.

MITCHELL It is my recollection that if this subdivision didn't have a detailed study, and wanted to plat, and was at least partly floodplain, as mapped in the 1986 map.

HUANG They should plat the minimum pad on it.

MITCHELL The only way to do that is to do a flood study in order to obtain an elevation.

HUANG Are you saying this is not in the FEMA study?

MITCHELL The 1986 map was an approximate mapping area, which does not provide an elevation, but the 1997 study does. We do have an elevation, not the adopted floodplain map. The one that does cover, at least, part of this area, and I thought a sizeable portion of that of that southwest part.

HUANG The new map; the City Storm Water Utility Division should have that. I am definitely going to check with them.

MITCHELL I would believe that it would be in everyone's interest to defer this at least long enough to find out if a major proportion is in the floodplain and mapped.

MARNELL Is this something that can be found out during this meeting?

HUANG I will go to 8th Floor and check on that right now, and see if Shawn or Mr. Carrier is in the office.

MARNELL In any case, would the plat need to be modified with those lines on it?

MITCHELL If I am correct it would.

MARNELL Maybe a deferral for two weeks would be more appropriate, unless it is just totally outside the area.

MOTION: To defer until the last item on this agenda.

MITCHELL moved, **JOHNSON** seconded the motion.

VICKY HUANG I went down to the Storm Water people, they don't have that information since the study was not done in the City, and I then confirmed with Baughman, which is the platting engineer, and they told me that their number is based on the Black and Vetch Flood Study in 1996, which was done for the County. And the base flood elevation is 1,298, and they propose the minimum pad is 1,300, which is two feet above, so it should meet the flood code.

MITCHELL Ho much of the plat does that apply to?

HUANG Only a very minor portion on the west side that is in the flood plain. The floodway does clip the reserve, which is platted for drainage. There would not be any building in Reserve A.

MOTION: To approve as recommended by the Subdivision Committee.

MITCHELL moved, WARNER seconded the motion, and it carried (13-0).

2-4. SUB2004-66 – One-Step Final Plat – WOODLAND LAKES ESTATES FOURTH ADDITION, located NORTH OF Harry, west of 127th Street East.

NOTE: This is a replat of a portion of the Woodland Lakes Estates Third Addition. The replat includes five fewer lots.

STAFF COMMENTS:

- A. Petitions have been provided with Woodland Lakes Estates 3rd Addition for sewer, water, drainage and paving improvements. **New petitions are needed for future improvements. A respread agreement is needed for those improvements under construction.**
- B. **Debt Management** has requested the submission of a respread agreement for existing improvements and for those under construction.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- D. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- E. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- F. For Reserve, A which includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and public hearing will be needed in the future.
- G. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- H. The applicant has platted 20-ft building setbacks for the lots abutting the terminus of the cul-de-sacs; whereas the Zoning Code requires 25 feet. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. The signature line for the City Clerk needs to be revised to reference "Karen Sublett".
- K. **GIS** has requested that Zelta be revised to Zimmerly.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that

the type of delivery, and the tentative mailbox locations can be determined.

- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- T. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy has requested additional easements.
- U. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **DUNLAP** seconded the motion, and it carried (12-0).

2-5. SUB2004-67 – One-Step Final Plat – REGENCY PARK SECOND ADDITION, located south of 29th Street North and on the west side of Greenwich Road.

NOTE: This is a replat of a portion of the Regency Park Addition, which includes the vacation of 27th Circle. A Protective Overlay (P-O #13) was also approved for this site addressing uses, screening, setbacks and cross-lot circulation.

STAFF COMMENTS:

- A. Petitions have been provided with the Regency Park Addition for sewer, water, drainage and paving improvements. City Engineering requests new guarantees.
- B. Debt Management has requested the submission of a respread agreement for special assessments due to the lot reconfiguration.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. City/County Engineering needs to comment on the status of the applicant's drainage plan. County Engineering requests a drainage plan.
- E. Traffic/County Engineering needs to comment on the access controls. The plat proposes two openings along Greenwich Road. The access controls are approved.
- F. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- G. County engineering requests a guarantee for left and right turn lanes along Greenwich.
- H. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay and its special conditions for development on this property.
- I. GIS has requested that 29th St. should be relabeled as 28th St. In addition "Regency Park St." should be labeled as "Regency Park".
- J. In accordance with the Protective Overlay, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- K. The proposed setbacks do not conform to the building setback lines, which were established by the Protective Overlay. If the proposed setback reductions are approved with this plat, an adjustment to the Protective Overlay will be needed.
- L. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.

- M. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- V. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **DUNLAP** seconded the motion, and it carried (12-0).

2-6. DED2004-12 – Dedication of a Utility Easement, for property located on the west side of Hillside, north of 31st Street South.

OWNER/APPLICANT: John and Sherry Young, 3046 E. 31st Street South, Wichita, KS 67216

AGENT/SURVEYOR: Armstrong Land Survey, 1601 E. Harry, Wichita, KS 67211

LEGAL DESCRIPTION: The west 2 feet of the east 10 feet of the north 92 feet of Lot 11, and the north 2 feet of the south 14.87 feet of Lots 10 and 11, Edminster Gardens Addition, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of a lot split case (SUB 2004-48) for a utility easement.

STAFF RECOMMENDATION: Accept the Dedication.

MITCHELL My meeting with the City Engineer tomorrow, in part, will be to discuss the current practice of asking for two feet of additional utility easement where the old utility easement was 16-feet in areas that are already developed, and the utilities are there, and where we are only picking up small isolated parts of this additional dedication request.

In this particular case the application is a Lot Split, the additional two feet of easement on the north-south rung, and the east/west rung have nothing to do with providing utilities to either of the sides of the lot left, as I understand it. So we don't figure into improvements made necessary by the Lot Split under our Section 6 Subdivision Regulations.

I have talked with the Public Works Director, and I think he agrees with me but he wanted me to talk to the City Engineer before he did determine the policy. But I did want to raise it again because we have been three-four weeks trying to get this set up, and every Subdivision process we have another one show up.

It doesn't look to me like it is worth either the City's time to record this information or unpopular attitude that it leaves citizens that the City is there to grab what they can on any application. Two weeks ago we had two of them that had to do with building setbacks, which were not even close to utilities. I think this is a practice we ought to do away with. I am not in favor of the dedication but I am in favor of the Lot Split.

MARNELL In the case of this existing item, did any of the public utilities themselves request additional easements?

MITCHELL No.

MOTION: To approve the Lot Split and remove the requirement for the dedication out of the approval process.

MITCHELL moved.

SCHLEGEL If you do that since it is a requirement of the Lot Split case which has already been decided then what you are doing is preventing the Lot Split from moving forward. We would have to go back and re-hear that Lot Split Case.

MOTION: Withdraw my motion.

MITCHELL moved.

MARNELL Where was that decision made, at Subdivision?

STRAHL The Lot Split was an administrative matter, and my understanding is that we have approved the Lot Split. We obtained the utility easements, so we have approved the Lot Split already.

SCHLEGEL So if they would not approve this dedication it would have no impact on the Lot Split?

STRAHL The drawing would be incorrect, because it is showing the utility easement established with the Lot Split; so it would impact it in that regard.

SCHLEGEL We would have to get the drawing correct?

MARNELL It was my understanding that all the Subdivision Items ultimately came here for final approval and that it can still be modified at that point.

MILLER Lot Splits are handled administratively and they have never come to Subdivision.

MARNELL This is the Dedication of an easement, so it is not here as a Lot Split. It is dedicating an easement because of a Lot Split that created it and it has already been approved?

STRAHL The Lot Split has been approved.

MARNELL If we don't approve the Dedication of the easement the land is simply just not dedicated is it?

MILLER It is just that we have that Lot Split drawing that is inaccurate that we would need to somehow get a revision to the Lot Split drawing so that it is correct.

SCHLEGEL Is that drawing recorded?

STRAHL Yes.

MITCHELL I will withdraw my motion.

MOTION: I will withdraw my motion.

MITCHELL moved.

DUNLAP What effect does this have on the property owner? When we take this dedication from them we in effect don't reduce their property taxes do we? We simply restrict their use on that property which they still have title to and still pay taxes on?

STRAHL That is correct.

DUNLAP I wish Commission Mitchell wouldn't have withdrawn his motion.

MILLER When that question came up on whether the taxes would go up on the property owners along the 24th Street Vacation that Bill just did, the two block long section. I called the Appraiser, because that was one of the questions that was asked by one of the applicants "are my taxes going up if I get the additional ground?" Their answer is that it doesn't make a bit of difference because what they are going off of is comparable sales. So if the comparable sales remain the same I don't know that the dedication, or lack of dedication, will make a difference on this individual's taxes.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **MCKAY** seconded the motion, and it carried (12-0).

2-7. **DED2004-13 – Contingent Sidewalk and Utility Easement Dedication, for property located south of Maple and on the west side of 119th Street West.**

OWNER/APPLICANT: William G. Farha, II, Westlake, LLC, 8100 E. 22nd Street North, Wichita, KS 67226

AGENT/SURVEYOR: Baughman Company, P.A., 315 Ellis, Wichita, KS 67211

LEGAL DESCRIPTION: The east ten feet of Lot 2, Thunderbird Office Park Addition, Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of a lot split case (SUB 2004-47) for a ten-foot sidewalk and utility easement along 119th Street West.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **WARNER** seconded the motion, and it carried (12-0).

❖ **PUBLIC HEARING — VACATION ITEMS**

3-1. **VAC2004-28 – Request to Vacate a Platted Floodway Easement.**

APPLICANT: Mitch Andrla

LEGAL DESCRIPTION: Platted floodway as recorded on Lot 1, Block A, Andrla Addition.

LOCATION: Generally located midway between Seneca Street & Meridian Avenue on the south side of 55th Street South

REASON FOR REQUEST: Use of the site

CURRENT ZONING: Subject property is zoned "GC" General Commercial. All adjacent and abutting properties are zoned "SF-5" Single-family Residential.

The applicant is requesting consideration for the vacation of a platted floodway that runs northwest to southeast through Lot 1, Block A, Andrla Addition. The floodway is approximately 285-feet wide and 382-feet long; 2.4-acres of the 3.69-acre site. There are no sewer or water lines in the floodway reserve. There are no other platted floodways abutting or adjacent to the site. There is drainage running within the platted floodway. The approximately 20-acre South Lakes Park (City of Wichita) is north of the site, across 55th Street South. Establishment of this Park changed the drainage patterns in this area, to the point that drainage now flows, via surface ditch, to the west of the site rather than through it. The applicant wishes to expand his landscaping supplies business into the platted floodway. The Andrla Addition was recorded with the Register of Deeds September 22, 1972.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the floodway reserve as described in the legal description with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time June 3, 2004, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described floodway reserve and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the floodway reserve described in the petition should be approved with conditions:
 - (1) Vacate only that portion of the platted floodway as approved by City Public Works/Strom Water. Provide Staff, if needed, with plans for review and approval by City Public Works/Strom Water, including, if needed, a metes and bounds description of the portion of the floodway to be vacated. All to be provided prior to the vacation case proceeding to WCC.
 - (2) Provide franchised utilities with any required easements made necessary by the proposed vacation.

- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (4) All improvements shall be according to City Standards.
- (5) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate only that portion of the platted floodway as approved by City Public Works/Strom Water. Provide Staff, if needed, with plans for review and approval by City Public Works/Strom Water, including, if needed, a metes and bounds description of the portion of the floodway to be vacated. All to be provided prior to the vacation case proceeding to WCC.
- (2) Provide franchised utilities with any required easements made necessary by the proposed vacation.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (4) All improvements shall be according to City Standards.
- (5) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **GAROFALO** seconded the motion, and it carried (12-0).

3-2. VAC2004-29 – Request to Vacate a Portion of Platted Setbacks.

<u>OWNER/APPLICANT:</u>	Greenwich Investment Group, LLC c/o Steve Barrett
<u>AGENT:</u>	Baughman Company PA c/o Phil Meyer
<u>LEGAL DESCRIPTION:</u>	50-feet of the platted 100-foot setback that runs parallel to the Greenwich Road ROW on the west side of Lot 1, and 50-feet of the platted 100-foot setback that runs parallel to the 21 st Street North ROW on the south side of Lot 1, all in Block 1, the Manhattan Addition, as recorded, Wichita, Sedgwick County, Kansas.
<u>LOCATION:</u>	Generally located on the northeast corner of 21 st Street North and Greenwich Road intersection.
<u>REASON FOR REQUEST:</u>	Development of the site
<u>CURRENT ZONING:</u>	Subject property and south adjacent properties are zoned "LC" Limited Commercial. Properties east of the site are zoned "LC" and "SF-5" Single-family Residential. Property to the north of the site is zoned "SF-5". Property west of the site is zoned "LC" and "LI" Limited Industrial.

The applicant is requesting vacation of 50-feet of the platted 100-foot setbacks, as described, on Lot 1, Block 1, the Manhattan Addition. All the setbacks run parallel to street ROWs. The UZC's standard for a front yard setback for the "LC" zoning district is 20-feet, with a minimum 10-foot street side setback. The applicant's site is 17.91 acres in size. There are no other 100-foot setbacks at this intersection, including the 13.35, Lot 1 of the Kensington Gardens Addition, which has 35-foot setbacks. The Manhattan Addition was recorded January 14, 1997.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives, and other interested parties Planning Staff recommends approval to vacate 50-feet of the platted 100-foot setbacks as described in a legal description.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time June 3, 2004 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted setbacks and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of a portion of the platted setbacks described in the petition should be approved with conditions;

- (1) Vacate 50-feet of the platted 100-foot setbacks, per the legal description, on Lot 1, Block 1, the Manhattan Addition, stopping at their point of intersection with the platted easements and exceptions on the site or abutting the site.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (3) All improvements shall be according to City Standards.
- (4) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate 50-feet of the platted 100-foot setbacks, per the legal description, on Lot 1, Block 1, the Manhattan Addition, stopping at their point of intersection with the platted easements and exceptions on the site or abutting the site.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
3. All improvements shall be according to City Standards.
4. All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **GAROFALO** seconded the motion, and it carried (12-0).

3-3. VAC2004-30 – Request to Vacate a Portion of an Easement, Dedication by Separate Instrument.

OWNER/APPLICANT: McCoy Associated Building Partnership

AGENT: Baughman Company PA c/o Phil Meyer

LEGAL DESCRIPTION: A portion of the 20-foot easement dedicated by separate instrument, Film 407, Page 240, as described in the attached legal description, that generally runs along the south portion of Lot 9, the Kapaun 1st Addition, as recorded with Wichita, Sedgwick County, Kansas.

LOCATION: Generally located northwest of the Woodlawn Boulevard – Central Avenue intersection.

REASON FOR REQUEST: Existing building in the easement

CURRENT ZONING: Subject property and abutting/adjacent south and west properties are zoned "LC" Limited Commercial. Property north of the site is zoned "GO" General Office. Property east of the site, across Woodlawn Boulevard is zoned "LC" and "B" Multi-family Residential.

The applicant is requesting consideration for the vacation of a portion of a 20-foot utility easement dedicated by separate instrument, Film 407, Page 240 that generally runs along the south portion of Lot 9, the Kapaun Addition. A survey of the property revealed that the existing building encroaches into a portion of the easement; per the attached exhibit, less than a foot at its deepest point. The site is located in CUP DP-45. The Kapaun 1st Addition was recorded with the Register of Deeds June 19, 1973.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the utility easement dedicated by separate instrument as described in the legal description with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time June 3, 2004, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the utility easement dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

- B. Therefore, the vacation of the portion of the utility easement dedicated by separate instrument described in the petition should be approved with conditions;
1. Vacate only that portion of the easement dedicated by separate instrument as described in the legal description.
 2. Provide a substitute easement, as approved by the Public Works Engineer, to be provided to Planning Staff for the WCC agenda packet and its subsequent recording with the Register of Deeds.
 3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 4. All improvements shall be according to City Standards.
 5. All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate only that portion of the easement dedicated by separate instrument as described in the legal description.
- (2) Provide a substitute easement, as approved by the Public Works Engineer, to be provided to Planning Staff for the WCC agenda packet and its subsequent recording with the Register of Deeds.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (4) All improvements shall be according to City Standards.
- (5) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **GAROFALO** seconded the motion, and it carried (12-0).

❖ **PUBLIC HEARING — ZONING ITEMS**

4. **Case No.: ZON2004-31** — John and Charlotte Hendrick Request Zone change from "SF-5" Single-family Residential to "TF-3" Two-family Residential on property described as;

Lots 5 through 9, inclusive, Garden Meadow Addition, Wichita, Sedgwick County, Kansas. Generally located Midway between 127th Street East and Greenwich, north of Douglas, east of Jackson Heights Street.

BACKGROUND: The applicants request a zone change from "SF-5" Single-Family Residential to "TF-3" Two-Family Residential on Lots 5 – 9, of the Garden Meadows Addition. Lots 1 – 4 of the Garden Meadows Addition will remain zoned "SF-5". The subject site is located north of Douglas and east of Jackson Heights Street, midway between 127th Street East and Greenwich Avenue. The applicant proposes to develop the site with duplexes on the five eastern lots, which are at the end of the Jackson Heights Court cul-de-sac.

The immediate area is characterized by large lot/tract single-family residential development with "SF-5" zoning on the north side of Douglas Avenue. The size of these lots/tracts range from 0.25–acres to over 4-acres with the houses on them having been built anywhere from the 1920s to 1980, with the majority having been built during the 1940s and 1950s. Materials used on the houses vary from brick, to brick and wood or composite siding, to wood or composite siding. Some of the larger lots, with houses on them, also have outbuildings on them allowing these property owner's to keep their horses on their properties. The area also features lots of mature trees, landscaping and some mixed tree hedges. South of Douglas Avenue there is undeveloped, woody "SF-20" zoning, in a small isolated part of Sedgwick County, and a large manufactured housing park. The subject site/Garden Meadows Addition is on Jackson Heights Court, an asphalt paved, roll over curb, cul-de-sac. There is one single-family residence, built on two of the lots, in the addition. The five subject lots' size ranges from approximately 0.33-acres to 0.50-acres.

CASE HISTORY: The Garden Meadows Addition was recorded with the Register of Deeds February 17, 1999. The applicant's had previously applied for a zone change from "SF-5" to TF-3" on the property. The request, ZON2004-00010, went before the MAPC for consideration and recommendation at their April 22, 2004 meeting. There were protesters at the MAPC meeting. The applicant withdrew their request at the April 22, 2004 meeting before the MAPC made a recommendation on the zone change request. Because the applicant withdrew their request prior to the MAPC making recommendation on the zone change request, the applicant can make a new application for a public hearing for a zone change request without waiting a year from the time of the last application for a zone change.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5" Single-family residences

SOUTH: "SF-5" Single-family residences
EAST: "SF-5" Single-family residences
WEST: "SF-5" Single-family residences

PUBLIC SERVICES: The site has access to Jackson Heights Court an asphalt paved, roll over curb, cul-de-sac. This cul-de-sac has access onto Jackson Heights Street, a two-lane asphalt residential street with open ditches. Douglas Avenue at this location is a two-lane asphalt residential street with open ditches. Public water and sewer service are available to serve the site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The "Low Density Residential" category provides for the lowest density (1 to 6 units per acre) of urban residential land use and consists of single-family detached homes, zero lot line units, cluster subdivisions, and planned developments with a mix of housing types that may include townhouse and multi-family units. The density of the proposed "TF-3" zoning matches the development density in a "Low Density Residential" area rather than a "Medium Density Residential" development density, which "TF-3" zoning is considered. The Comprehensive Plan contains the following objective: encourage residential redevelopment, infill, and higher density residential development that maximize the public investment in existing and planned facilities and services. The objective is intended to be achieved through several strategies, including using zoning as tools to promote mixed-use development, higher density residential environments, and appropriate buffering. The proposed "TF-3" zoning meets most of these criteria. However no buffering is required by the UZC between single-family residential use and duplex use.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area surrounding the subject site, north of Douglas Avenue, is characterized by large lot/tract single-family residential development, zoned "SF-5" Single-Family Residential. The residential development has occurred slowly, beginning in the 1920s through the present, with a majority of the immediate housing being built in the 1940s and 1950s. A few of the larger residential properties also have outbuildings on them, which allow their owners to keep horses on their property. This area features lots of mature trees, landscaping and some mixed tree hedges. The roads are generally paved asphalt with open ditches. Staff saw no vacant housing; this appears to be a vital residential neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-5" Single-Family Residential, which accommodates low to moderate-density single-family residential development and complementary land uses. The site could be developed for such uses; however, the development of 5 duplexes as proposed (approximately 6 to 4 units per acre) is within the appropriate density range (1 to 6 units per acre) for the "SF-5" district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by lot orientation and similar density to single-family lots.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The "Low Density Residential" category provides for the lowest density (1 to 6 units per acre) of urban residential land use and consists of single-family detached homes, zero lot line units, cluster subdivisions, and planned developments with a mix of housing types that may include townhouse and multi-family units. The density of the proposed "TF-3" zoning matches the development density in a "Low Density Residential" area rather than a "Medium Density Residential" development area. The Comprehensive Plan contains the following objective: encourage residential redevelopment, infill, and higher density residential development, which maximize the public investment in existing and planned facilities and services. The objective is intended to be achieved through the following strategy: use Community Unit Plans, Planned Development Districts, and zoning as tools to promote mixed use development, higher density residential environments, and appropriate buffering. The proposed "TF-3" zoning meets most of these criteria.
5. Impact of the proposed development on community facilities: Community facilities should not be adversely impacted due to the minor increase in density.

MITCHELL Are you saying that this density as shown is really closer to low density then what is being asked for?

LONGNECKER As it is proposed right now, as platted, the lot sizes of 0.33 acres to a half-acre, the density is within the 1-6 units per acre that is recommended for low density residential.

MITCHELL What zoning classification is that?

LONGNECKER That would be the "SF-5", "SF-10" and "SF-20" Single Family Residential zoning.

JOHN HENDRICK, 12202 E. Douglas, Wichita, KS 67206: I live at Jackson Heights and Douglas, which is the corner lot. My wife and I had this property platted back in 1999, and with the exception of being able to sell two of the lots, we have had trouble selling them. We have gone through retailers, mailings, and had quite a few inquiries to try and sell them. This is in an older district with, as noted in the Staff report, most of the houses having been built in the 1940-1950's, and it seems people are reluctant to build new in this area. There were only nine lots total to start with, and there are only seven available. Those properties have been vacant for 5 years and we have had to pay for the specials to put the street, water, sewer line etc.

We had a builder that recently came to us, to consider having duplexes put in here. My wife and my intention was to always have single-family homes in there, and that is all we had intended, but we cannot find a buyer for them. We had another builder about

three years ago that asked us for duplexes, but we didn't want to try to come down and rezoned it. But of course now the property has been sitting for another three years, and we have been paying the specials another three years. We have now had another builder come up and asked us for duplex consideration, and this time we went ahead and applied for the zoning.

That builder, as you may know from the April meeting when my wife was here, actually paid the fee to get it rezoned but he withdrew because one of his relatives lives on an adjacent property, and the builder mistakenly thought that person was going to submit protest petitions, which they did not. Their intention was to come here and find out what we wanted to put on there. The builder was intending to build \$200,000 duplex units, and of course we got a number of protest because the neighbors had thought that maybe that density was going to be out of character with the area. Staff's report shows the density as platted is still considered a low-density area regardless of having duplexes or single-family homes.

JACK GILBERT, 7015 ROCKWOOD, WICHITA, KS 67206: I own 1- 1/2 acres, which is just straight south of the site. I built a home out there, just to the east in 1977, and I sold it to a party that is here today at this hearing. I have been planning on building a home out there on that 1-1/2 acres, but if they put duplexes on there, there is no way that I would build. Because I do not think that ground will support \$200,000 duplexes to be sold or rented. You can go around Wichita and see what has happened where these duplexes and four-plexes have. I lived in the Parkwood Addition, and I saw what happened there at 9th and Oliver, and those are all boarded up today. If this changed to two-family homes, and somebody starts to build on those and they cannot sell the first and second ones. It is already changed, and the other ones are sitting there for two-family. They could go bankrupt and then we could have the same thing that we have in other parts of town. I think the area has always been a single-family, and I think everybody around there wants it to be the same.

DUNLAP You don't live in this area right now?

GILBERT No, I sold my house and moved into town because I had 7 1/2 acres, and that is too much mowing.

WILLIAM F. SMALLWOOD, 225 N GARNETT, WICHITA KS 67206: I am representing several people today that were at the last meeting, and can't be here today but have asked me to speak. There are two problems. If we start down this road of two-family housing then the whole area will be that way. In other words, we won't be able to go back. All these property owners that I am talking about want it to stay as single-family residential.

We have a lake north of the site, and we have had problems with people in the past trespassing, and the more people that we have in area, the more people we will have trying to get onto the lake. It is a private lake, and we want to keep it that way. It is a real nice area. It is nice and open, and we don't want to cluster houses in there if we can avoid it. We don't mind the single-family housing, which is fine. They have had opportunities to pursue that, and they have chosen other avenues.

The applicant's did invite us to their home, where they tried to intimidate us by saying that if we didn't go through with this they would try to put mobile homes in there. Here is a letter from them for that meeting, and in the third paragraph it mentions the mobile homes.

SUSIE SMITH, 12400 E. Douglas, Wichita, KS 67206: I believe you have also received my protest petitions as well. My property is the brick home, and I am directly east of Mr. Gilbert. I have a couple of concerns. I also worry about Jackson Heights Street. The street is very narrow there, and I don't think that it can take anymore added traffic as it is. Also, I worry about drainage, and what that drainage will do to the properties that are south of this area that they want to rezone. As the speakers have already told you, this area is single-family, and I think that it should stay that way. I have two young daughters and I worry about the type of people that would move into this property.

JOHN HENDRICK: We did have a meeting at our house, and I did bring to the attention to these individuals that if in fact we couldn't get the property rezoned as a duplex units that we would have to resort to modular homes, which are mobile homes in my opinion, and that the site is currently zoned for that use. I didn't like that option but I also said that I don't think we can afford to sit here on this property for another 2-3 years trying to sell it. We have a willing contractor who is willing to buy 5 of the lots, if it was zoned as a duplex unit.

As far as the drainage goes, we contacted the City Engineer, and we have an e-mail from Mrs. Debra Airee, which simply says that regarding drainage concerns in Garden Meadows Lot 5-9 the impact in the existing drainage system should be negligible if two family homes are constructed on lots that were originally platted as single-family residences.

Concerning Ms. Smith's concerns about additional traffic, certainly if you have additional 10 families out there you are going to have additional traffic on the road. I think the Planning Commission has looked at that, and decided that area can support an additional five families. She doesn't live on that property so she won't be driving up and down that road anyway. I don't know what different it makes if she thought the road couldn't handle that.

As far as the lake association goes and the additional folks that may come there, when it was originally platted by Ruggles and Bohm they had recommended that we subdivide it into 13 lots, and we decided to try to keep the lots a little bigger and opted for nine lots. So going to duplexes we end up with one more family that we could have had in that particular area had we decided to go with the recommendation from the surveyor in the first place.

The drainage that goes down this area here actually side skirts the house that is next to the vacant lot that belongs to Mr. Gilbert, and there is a large drainage ditch right at the base of his property where the water runs across the street. The same with the Smith's, the Smith's home slopes all toward a creek that is just east of their property. So it is going to rain and there will be water runoff, and it is irrelevant whether the homes are duplex's or single-family in the area.

SHERMAN in at 2:22 p.m.

GAROFALO Can you tell us reasons why you haven't been successful in selling any of these lots for sign-family?

HENDRICK I think the biggest reason is the specials in the area are \$130.00 per lot, per month on average. Other lots that were for sale, about 1/2 mile away, were selling for \$40-45,000 dollars. We had originally asked for \$20-25,000 for the half-acre lots, which we thought was reasonable. I think the added cost of the specials on each of these lots, and the fact that you are in such an old neighborhood, prevents a lot of people from putting down that kind of money. We lowered the price to this one contractor to try and sell five of the lots at this point and time.

GAROFALO The potential builder, are they talking about rental or sales?

HENDRICK His intent was to build two and sell them, and then he himself thought about renting some units. We do have some pictures of duplexes that he built out west. He also said that of five lots he would not make them all the same, and the he would make them differently. It is at the end of a cul-de-sac, and honestly you can't see that area from Douglas. You can't see it from Garnett, and you can barely see it off of Jackson Heights.

GAROFALO So the apparent intent is to sell one or two of these units?

HENDRICK Then the builder wants to own two or three himself, and rent them out if he is able to.

DUNLAP How long have you owned this property?

HENDRICK Since 1995, and we had it platted in 1998, and we did have one house moved in there in 1999-2000.

MOTION: To approve, subject to staff comments and citing the findings in their report.

DUNLAP moved, **HERNANDEZ** seconded the motion, and it carried (12-0-1) **SHERMAN** abstains.

5. **Case No.: CUP2004-23 DP239 Amendment #4** – Venture Seven Development LLC c/o George Laham, Gateway Center Add Master Owner Assoc., Gates Real Estate LLC, (owners); Professional Engineering Consultants, c/o Rob Hartman (agent) Request Amendment to The Gateway Center Community Unit Plan on property described as;

Lots 1, 2, 9, & 10, Block 1, The Gateway Center Addition. Generally located South of 13th Street North and east of Greenwich.

BACKGROUND: The applicant is requesting to amend Parcel 1 of DP-239 The Gateway Center C.U.P., also known as Plazzio, which is located on the southwest corner of the C.U.P., to accommodate a four-story hotel. The property is zoned "LC" Limited Commercial. The proposed changes are: (1) increase building height to 48 feet, (2) reduce maximum building coverage to 30,000 square feet (27.4 percent, currently allowed at 30 percent or 32,800 square feet) but increase maximum gross floor area to 74,000 square feet (67.7 %, currently allowed at 38,267 square feet), and (3) adjust parking requirements for hotel use to one space per room plus 10 additional spaces for the office/meeting area connected to the hotel. Also, the building setback on the south property line is increased from 20 feet to 35 feet, which is the standard setback for C.U.P.s.

The height of 48 feet is within the "LC" limits of 80 feet. However, the compatibility height standard for a 48-foot tall building adjoining "TF-3" Twofamily Residential zoning would be 89 feet between the building and the property line. A preliminary site plan shows the building at approximately 60 feet from the property line. The compatibility standard can be modified or waived by the C.U.P. amendment process subject to specifying reasons for such modification.

The requested parking requirement would meet the normal parking spaces for the hotel rooms, but would cap the number of extra spaces for office use and hotel meeting areas, retail and restaurant use to 10 spaces, instead of one space per 250 square feet of floor area plus one space per five occupants in the restaurant. Depending on the final site plan, this would have generated a requirement for perhaps 10 percent more parking spaces. Shared parking on the adjoining commercial sites should be sufficient to meet demand.

A minor change is proposed to shift the parcel boundary between Parcels 9 and 10 on 13th Street North by 20 feet eastward.

DP-239 is known as Plazzio and is partially developed with a large multi-screen theatre on the eastern portion of the C.U.P. bordering K-96. The interior parcel adjoining the theatre is being developed with a large bowling alley. A third large parcel nearer to Greenwich and the smaller parcels along 13th Street North and Greenwich are undeveloped.

Most of the area to the northwest is vacant but approved for commercial use, including DP-224 Dillon's 13th and Greenwich C.U.P at the corner. Chapel Hill United Methodist Church is located north 13th near K-96, and the church property includes several "LC" parcels with 13th Street North frontage. The property west of Greenwich is vacant but approved for commercial use as DP-254 Kiser C.U.P. Raytheon owns the property west of DP-254. Pine Ridge, a duplex subdivision zoned "TF-3" Twofamily Residential, is directly south of the parcel proposed for a hotel. However, a 40-foot reserve separates the duplex lots from the property line where the developer of Parcel 1 will be required to construct a masonry wall. Pine Meadow, a single-family subdivision zoned "SF-5" Single-family Residential, is being developed to the south of the theatre and bowling alley. K-96 is the eastern boundary of the Plazzio.

CASE HISTORY: DP-239 The Gateway Center C.U.P. was approved in March 17, 1999. It is platted as The Gateway Center Addition, recorded March 6, 1999. Amendment #1 was approved by MAPC on September 21, 2000 and allowed theatre/entertainment types of uses. Amendment #2 was approved by MAPC on January 24, 2002 and increased wall signage for Parcel 12-A. Amendment #3 (CUP2004-00003) was approved earlier this year (April 8, 2004) and also adjusted parcel sizes,

signage restrictions, architectural controls and access. Several lot splits have been done already, and the applicant is in process of replatting, which was a condition of Amendment #3.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC"; "SF-5"	Vacant, church
SOUTH:	"SF-6"; "TF-3"	Duplexes, single-family residential
EAST:	"LC"; "SF-5"	Theatre and bowling alley, K-96
WEST:	"LC"; "SF-20"	Vacant

PUBLIC SERVICES: The site has access to 13th Street North, a six-lane arterial, and Greenwich, a two-lane arterial. Traffic volumes on 13th Street North were approximately 8,250 vehicles per day in 2003 and are projected to increase to 36,000 ADTs by 2030 in a recent transportation study of the Greenwich corridor.

Other normal municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "commercial" development. A hotel is considered a less intensive use than restaurant or general retail use, which makes it a better transitional land use. However, the additional height adjacent to the duplexes could pose a conflict with Land Use-Residential Strategy II.B4 that states: "evaluate and implement an effective development plan review process to ensure that building placement and height, circulation, signage, screening and lighting for non-residential land uses do not adversely impact residential areas".

RECOMMENDATION: The main concern for the amendment is to ensure the site plan respects the need to minimize the impact of the taller hotel next to the residential area. A 40-foot reserve in Pine Ridge separates the duplex lots from the property line. This helps somewhat, however, the reserve is an open drainage area and without any plant materials to serve as landscape buffering, and the 40 feet cannot be used in meeting the compatibility height setback of the Unified Zoning Code. In lieu of strict compliance with the compatibility standard, conditions are recommended for additional landscaping and lighting restrictions to strengthen the buffer between the uses.

Based on the information available prior to the public hearing, staff recommends Amendment #4 be APPROVED subject to the following conditions:

1. Conditions of Amendment #3, including replatting, changes in access control and required guarantees, shall remain in full force and effect and be considered as additional requirements of Amendment #4.
2. Landscaping shall be provided at a rate of one shade tree or equivalent per 27.5 feet along the southern property line of Parcel 1 with at least one-third of the trees being evergreen. Shade trees shall be a minimum of 4" caliper and evergreen trees shall be a minimum of 10 to 12 feet in height at time of installation. Light standards, including pole, base and fixture, shall be limited to a height of 14 feet within 100 feet of the southern property line. Lighting on buildings shall use full cut-off security shielding to direct lighting downward and prevent spillage onto residentially zoned property. No building wall signage shall be permitted on the south façade.
3. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
4. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
5. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by MAPC, or the Governing Body, if required, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Most of the area to the northwest is vacant but approved for commercial use, including DP-224 Dillon's 13th and Greenwich C.U.P. at the corner. Chapel Hill United Methodist Church is located north 13th near K-96, and the church property includes several "LC" parcels with 13th Street North frontage. The property west of Greenwich is vacant but approved for commercial use as DP-254 Kiser C.U.P. Raytheon owns the property west of DP-254. Pine Ridge, a duplex subdivision zoned "TF-3" Two-family Residential, is directly south of the parcel proposed for a hotel. Pine Meadow, a single-family subdivision zoned "SF-5" Single-family Residential, is being developed to the south of the theatre and bowling alley. K-96 is the eastern boundary of the Plazzio.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed in conformance to the existing C.U.P. plan.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The main impact will be the additional height and mass on Parcel 1. The allowable building footprint on Parcel 1 is reduced, but this is offset by the increased height and gross floor area. The increased number and size of trees on the southern property line and the reduced light standard heights will mitigate the impact. The change in parking requirement should have no impact on the residential uses and negligible effect on the nearby commercial parcels. A possible impact from Amendment #3 would be if access controls were changed on the east side of Greenwich without the commensurate change on the west side. This could create traffic conflicts and safety hazards, and is the reason the conditions of approval for Amendment #3 are continued by this amendment.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The proposed amendments are in conformance with the *Comprehensive Plan* for "commercial" use. The additional height is in conflict with the compatibility standards of the Unified Zoning Code; the additional landscaping and light restrictions is to compensate for the compatibility standard waiver and to be in accordance with the commercial locational guidelines for site design features to minimize impacts on residential uses. The parking requirement would be in conformance to Unified Zoning Code procedures available for reducing total parking requirements for a site based on the potential for shared parking within a larger commercial development.
5. Impact of the proposed development on community facilities: Traffic generated by the hotel is anticipated as less than generated by general retail type of development. No other significant community impacts are anticipated.

DONNA GOLTRY Planning staff The applicant has requested one change in the recommended conditions that are on page four of the staff report, and this has to do with the height of lighting fixtures within 100 feet of the southern property line. The applicant has requested that the 100-foot restriction be reduced to 75 feet based on the presence of the 40-foot buffer drainage reserve between the property line and the actual property line of the "TF-3" Twofamily duplex units that are located to the south.

ROBERT HARTMAN, PEC: I am in agreement with the 75-foot change.

MOTION: To approve with change from 100 feet to 75 feet.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (13-0).

6. Case No.: CUP2004-22 DP75 Amendment #2 – Players Sports Bar and Grill c/o David Chaffin (owner/applicant); Sign-A-Rama c/o Randy Kubik (agent) Request Amendment to The Horseshoe Lake Community Unit Plan on property described as;

Lot 11, Block 2, Horseshoe Lake Addition. Generally located North of 21st Street North and east of Northshore Blvd.

BACKGROUND: The applicant requests an Amendment to DP-75 Horseshoe Lake CUP to change the signage provisions of the CUP. The subject property is zoned "LC" General Commercial and is located north of 21st Street North and east of Northshore Boulevard. The subject property is developed with a restaurant on Parcel 4 of the CUP.

The applicant proposes to amend General Provision #18, which contains the following statement: "No signs with rotating or flashing lights shall be permitted." The applicant proposes to amend General Provision #18 to allow a 5' x 10' electronic message sign on the south wall of Players Sports Bar and Grill (see attached rendering). Section 24.04.185.k. of the Sign Code indicates that an electronic message sign shall be classified as an animated, flashing, or moving sign when the rate of copy and/or graphic changes is more than one per second. Since the proposed electronic message sign would display animated, flashing, or moving images and text as defined by the Sign Code, an amendment of the CUP is needed. An electronic message sign for which images and text change no more often than once per second is permitted by right on the subject property.

The surrounding area is characterized primarily by recreational and low-density residential uses, with small-scale commercial uses on a few properties in the vicinity. The properties to the north, northwest, and east are zoned "GO" General Office and "MF-18" Multi-Family; however, they are developed with single-family residences. The property to the west is zoned "LC" Limited Commercial and is developed with a financial institution. The property to the south is zoned "SF-20" Single Family and is developed with Sedgwick County Park.

CASE HISTORY: In 1977, the subject property was zoned (Z-1769) "R-5" General Residence (now "MF-18"), platted as part of the Northlakes Addition, and approved for the Horseshoe Lake CUP (DP-75). In 1996, the zoning (Z-3155) of the subject property was changed to "LC" Limited Commercial, and the subject property was replatted as Lot 11, Block 2, Horseshoe Lake Addition. The Horseshoe Lake CUP (DP-75) also was amended in 1996 to allow commercial uses on the subject property. In 2000, access control along 21st Street North was vacated to allow a full movement drives to the subject property.

ADJACENT ZONING AND LAND USE:

NORTH:	"GO"	Single family
SOUTH:	"SF-20"	Sedgwick County Park
EAST:	"GO"	Single family
WEST:	"LC"	Financial institution

PUBLIC SERVICES: The proposed amendment pertains only to signage regulations and has no impact on public services.

CONFORMANCE TO PLANS/POLICIES: The Horseshoe Lake CUP (DP-75) expressly prohibits signs with rotating or flashing lights on the subject property and the surrounding 60 acres. The proposed amendment is contrary to the planned development of the subject property and the surrounding area.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **DENIED**.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding neighborhood is characterized primarily by recreational and low-density residential uses and zoning. Commercial uses in the neighborhood are small scale and have very limited signage, none of which have animated, flashing, and moving images or text. The request is contrary to the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial, and is currently developed with a restaurant. The proposed changes to the signage regulations are unnecessary for the subject property to be suitable for the uses that are permitted.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: An animated, flashing, and moving sign would introduce a higher intensity of commercial signage than presently exists in the neighborhood, which would detrimentally affect nearby properties by introducing a distracting sign that is uncharacteristic of the neighborhood.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Horseshoe Lake CUP (DP-75) expressly prohibits signs with rotating or flashing lights on the subject property and the surrounding 60 acres. The proposed amendment is contrary to the planned development of the subject property and the surrounding area.
5. Opposition or support of neighborhood residents: All neighborhood residents that have contacted planning staff prior to preparing the staff report have been opposed to the proposed animated, flashing, and moving sign, including one neighborhood resident who submitted that attached letter of opposition.

SCOTT KNEBEL Planning staff This is a simple amendment and deals only with the signage provisions with a C.U.P., and it is kind of test case, if you will, given the particular type of signage. The sign that is proposed, you should have a drawing of it. This particular CUP has a prohibition on signs with rotating or flashing lights. The Sign Code says that lights are considered to be flashing, animated and moving, in the definition, if they change more than once per second, which this sign would be able to do. The issue then is if this sign is rotating or flashing, then it would not be permitted by the CUP, and the CUP would have to be amended. It is pretty common language in CUP's throughout the community for such developments, large commercial developments that are under common ownership at the time that they are applied for, to have that prohibition. Staff is erring on the side of caution that we shouldn't say that this language that has been in CUP's for as far back as I could find for the last 10 years should be just disregarded. We recommend the request be denied.

JOHNSON Show a zoning map of the area. Is there industrial zoning in the area?

KNEBEL All of the zoning in here is significantly lower in intensity than what would be permitted, but you do have industrial zoning further east, correct.

GAROFALO On Item four, page three, it says the Horseshoe Lake CUP expressly prohibits signs with rotating or flashing lights. Does this qualify as rotating or flashing lights?

KNEBEL Yes.

GAROFALO It does? What would be rotating and flashing on that? It looks like a video screen to me.

KNEBEL It would be the image itself that could rotate or flash.

GAROFALO And it faces?

KNEBEL It would face south to the park across the street, basically right out the exit. It is better than it being on the side of the building where it would be visible from residences and so forth.

GAROFALO How far from homes is that?

KNEBEL Homes that it faces or just homes in the general area? As far as the actual sign face, I don't think any homes would be able to see it directly but the nearest homes surround it in three directions. They are a block or two away.

MCKAY How thick is this sign?

KNEBEL I don't know. Hopefully the applicant can answer that.

MCKAY It will be attached to the building, face south, and the image will be like a movie screen?

KNEBEL Right.

BISHOP I note there is no reference to the DAB meeting.

KNEBEL It can go to the next DAB hearing if there are protests filed. The Notice of Public Hearing that we sent to the property owners indicated that because of the July 4th holiday, the next scheduled DAB meeting was more than 14 days after this meeting. If there are no protest petitions filed of this Board's action, then this Board's action is final, and there is no reason to take it to a DAB meeting when the DAB can't make a recommendation to anybody because the decision is already final. If there are protests received, we will send it to DAB hearing and then to the City Council.

WARNER Can any single property owner request a change in the provisions in the C.U.P.?

KNEBEL As they apply to their property, yes. If they wanted to change the provisions to just eliminate this requirement for the entire C.U.P., it would take all of the owners in the C.U.P. to agree to that.

WARNER But you have the right to request for just your property?

KNEBEL Right, so if this Board were to make a recommendation or decision, and it is not protested, then it would just apply to this one parcel.

WARNER If the balance of the property owners protest it, does this go beyond this Board? Does this go to the City Council?

KNEBEL It would move forward to the City Council if there are protest petitions filed by the balance of the property owners.

GAROFALO Is there any sound involved here?

KNEBEL I don't know the exact answer, but I can tell you that the language of the C.U.P. does not presently prohibit it.

SHERMAN You mentioned the protest. Does this letter indicate that there is not a protest?

KNEBEL What you have there is a fax that I received that was unsigned, and I was going to wait and see what happened and let this person know that if they choose to protest this, then they will need submit a signed letter to the City Clerk.

SHERMAN This is not an official protest?

KNEBEL No, it is unsigned and the City Clerk needs to receive a signed letter for it to be official.

HERNANDEZ Did you attach this letter to your report? You received it, and attached it?

KNEBEL Yes.

HERNANDEZ I am curious how the loud cars, the motorcycles, and the bright lights, how this sign has anything to do with all this?

KNEBEL You would have to ask the person who wrote the letter.

HERNANDEZ You attached the letter, so you thought it was significant to let us review.

KNEBEL It was submitted for your review by this person to me.

BISHOP I am concerned that the zoning to the north and east is General Office.

KNEBEL It is zoned General Office. They ended up developing it with single-family but it is zoned "GO", and the permitted uses are single-family, townhouse, cluster housing, and office use.

BISHOP So in a sense the C.U.P. is one of the main protections the single-family dwellings in that area have to fall back on since they are on property that is at a higher intensity.

KNEBEL Actually, I don't believe the C.U.P. provides must protection to the single-family homeowners from the General Office zoning because it does allow office use. There may be some private covenants that were put in place.

RANDY KUBICK, SIGN-A-ROMA, JOPLIN, MO: Very simply the sign will be placed on the facade of Players Sports Bar facing south. It will radiate light approximately 35 feet. It will have no visible impact whatsoever on any of the surrounding homes or property, since it will be facing south. It will be viewable only from about a 45-degree angle approaching the business from the east or the west. There will be no sound involved. Technically it does not fall under this zoning. I don't have the engineering data with me, but I could supply it. It is incapable of changing messages or text more than once per second. It is not designed to make Players look like Las Vegas. It is placed principally to aid his customers in knowing whether seating is available and to show various specials. This was done under the provision that it is "LC" Limited Commercial, and for that reason we did proceed with this application.

MCKAY Do you know how deep it is? Can you see lights from the side, top, or bottom?

KUBIK It is a fully encased cabinet. It is 10-12 inches deep. It will be mounted on the face of the building. The sign itself in terms of the electronic message center portion is approximately 4' X 9 1/2'. Above that will be traditional signage that will state the seating availability, 15, 20, 30 minutes, which will be set up on an internal switch that someone can control.

MCKAY So you will not have lights that might be blinking around the edges something to draw attention coming from the east or from the west?

KUBIK No.

MILLER I would advise the Commission that if we had known that it is incapable of changing sign faces faster than a second, it probably doesn't require this amendment or this hearing. It probably could have gone straight to Central Inspection and got a permit for a sign, because that would meet the criteria that it is not a flashing, rotating or moving sign as prohibited by the C.U.P.

SCHLEGEL Dale, would it be best for the applicant to withdraw the request?

MILLER You can either continue with the hearing, do whatever you are going to do, and then after it is over we can get with Central Inspection and confirm that in fact it meets their criteria and doesn't need a hearing. Or you could stop the hearing at this point and let them do that and defer it to a later date.

JOHNSON How easy will it be to obtain the information as to whether it is a second or less than?

KUBIK I can get that from the direct manufacturer in short order, but I couldn't get it today.

JOHNSON How positive are you about the second?

KUBIK Absolutely.

DUNLAP Dale, this is only a part of the Sign Code, and what we are approving here is this sign. It may not comply with the square footage requirement already existing, and if that is the case then we need to continue to proceed here, so that we can approve this sign on that building, in this location.

MILLER Scott says that it meets the signage area requirements, but I think you can use some discretion. If you want to complete the hearing, that is up to you.

DUNLAP I would like to.

HERNANDEZ You are the sign company?

KUBIK Right.

HERNANDEZ I am familiar with Players, and you have been there four to five years now?

DAVID CHAFFIN, Owner, Players Sports Bar and Grill: At this location yes.

HERNANDEZ Why after four to five years do you now need a sign?

CHAFFIN The business I have chosen is extremely competitive. Even though I have been in Wichita since 1984, there are people in Wichita who have never heard of me. I have heard from people asking what is a sports bar? You see I am a restaurant. I started in 1984 when there were no Sport Bars. I thought it was an interesting concept. Over the years I have thought I had the reputation of a restaurant, 78% of my sales is food, but I still get people who come to me and say are you a restaurant or a sports bar?

DANA SHIPLEY, 2350 N. Sand Plum Lane, Wichita, KS 67205: I am a high dollar payer of taxes, and a concerned citizen. You cannot see my property on this map. With people going in to see if they can be seated or if they cannot be, this is really, in my opinion, going to make a more traffic hazard. We have Ritchie Brothers, and they have cement trucks, and heavy trucks coming in and out of there trying to get out on 21st Street. There is also Zoo Boulevard. I belong to a homeowners association. We were promised a light, and I would like to see the City take it over and put in a light because there is very heavy traffic. The traffic problem is bad.

SHERMAN What is your issue with the signage?

SHIPLEY The idea that people will come in and out to check on seating, so people will pull in here and then pull out. From 7 a.m. to 8 p.m., there is wall-to-wall traffic on 21st Street. People travel 21st fast.

SHERMAN Is your real concern the signage, or the traffic, the light and all this other stuff?

SHIPLEY Just the idea that the people will be coming in there to check the sign, in and out, so the sign will create more of a problem because people will want to read the sign.

CHAFFIN I know about the traffic problem on 21st Street. It will help. I will still have people pull in and see how much wait is. The wait is short. The sign will help the customers. Basically, the purpose of this sign is to let customers know how much of a wait there will be.

GIBBS The sign will be visible from 21st Street?

CHAFFIN If you are on 21st Street and drive-by, you will get the same information as driving in.

SHERMAN Mr. Kubik, traveling 45 mph at this 21st Street intersection, you are saying that your sign changes at a rate greater than one second per message?

KUBIK Traditionally when you have traffic that is a 40 mph zone you will leave a message on a sign for approximately 4-6 seconds for maximum exposure. It will only be visible from a 45-degree angle. It is designed principally and most visibly when people drive in.

SHERMAN Traveling 45 mph down 21st Street either direction, and your message changes once per second or every 3-4 seconds, can the average person read that sign from the street, get the message, and make a decision in that length of time? Do they have to pull in to get the message?

KUBIK To get the message, they will have to pull in, and they will be able to see on the top of the sign, immediate seating, 10, 15, 20 minutes etc. They will see that immediately because that will be illuminated separately from the electronic message center portion.

SHERMAN So they will still have to make a turn into the parking lot to read the sign?

KUBIK Yes.

SHERMAN So you are trying to avoid them coming in the restaurant and waiting?

GIBBS The seating portion of the sign stays constant or until he changes it?

KUBIK Right, it will be traditional type signage with florescent back lighting over a Plexiglas panel, and through controlling a switch inside, he can turn on the amount of time for seating.

GIBBS So the speed passing by wouldn't have any impact passing by?

KUBIK None, a portion will be on or off, and they will know immediately the seating time.

GIBBS So the only thing you would have to pull in for is the graphics.

BISHOP I would like to see if I could clarify the difference between what the sign is capable of doing and what the practice would be.

KUBIK It cannot change at a rate of more than once per second. The sign you saw earlier of A-OK Pawn Shop, which we did from a different manufacturer, has approximately 50% of the resolution of the proposed signage for Players. The computer controller cannot change the image in a second. There is too much data to go in there when you are doing graphics and programs. Even text will not change in less than a second. That is the way that it is engineered.

BISHOP So, what it comes down to is the specs for this particular sign in terms of how fast it can change?

KUBIK That is correct. There are others out there that you can make blink like a strobe light, but this is not one of them.

BISHOP So that is what OCI would have to look at if we decided to defer this, but they would have to look at the spec for this light and do they meet the Sign Code or not.

KUBIK It is such new technology. The City just revised the Sign Code not long ago, and what used to mean a flashing blinking sign is now an electronic message center.

BISHOP It seems like it would be a good idea for us to go forward with this, because potentially there could be sign there that could change faster than once per second.

DUNLAP The Sign Code has not kept up with the technology. When we re-wrote the Code that was several years ago. The state of the art has changed dramatically. We are talking about a sign with only one visible face to it. It seems silly that we would allow a church to have a flashing color message center and not allow a restaurant to do that. I disagree that it will create a traffic problem. I think it will solve a traffic problem, because people will get used to where that light is on top of the sign, and they will look at the lighted section and know whether or not to pull in there. The amount of time that it takes somebody to recognize and assimilate the information shortens every time they look at it. You can't see it from any residence. The park closes. You can't see it from the Zoo.

MOTION: To approve the request.

DUNLAP moved, **MITCHELL** seconded the motion.

KNEBEL As a point of clarification on the motion, there is going need to be some specific language in the C.U.P. When you say you approve the request, in my opinion, the way the request is written it is not specific enough for the people who issue permits to know what has been approved.

DUNLAP We have a picture that is part of the application.

KNEBEL The issue is something that is moving and flashing, which that picture is not.

DUNLAP We have an Ordinance that talks about moving and flashing.

KNEBEL Perhaps the motion would refer to the Ordinance or something along those lines.

DUNLAP Well, if we issue the permit based on the Ordinance, which is what we are saying, we are telling them to go ahead and issue the permit, then it becomes a Code Enforcement problem about whether or not it flashes more than once a second, and it doesn't need to be in our motion, I don't think.

MARNELL I don't want to see our motion end up being that we are approving this one specific sign from this one specific manufacturer, and if they go out of business or if the sign quits, that they can't replace it with something that is comparable.

KNEBEL That is not my suggestion.

MARNELL So if we remove the language restriction from the C.U.P. then they just have to comply with the Sign Ordinance it, would appear to me.

KNEBEL Actually if you remove the language, they would then be able to have a flashing and moving sign.

MARNELL But it would still be allowed because they would still have to comply with the Sign Ordinance?

KNEBEL The Sign Ordinance says that it is not a flashing and moving sign if it doesn't flash more than once per second. After discussing this with them, I really have no idea why OCI made them file this application.

MARNELL I thought that we could have a sign that does flash as long as it doesn't flash at a faster rate than once every second.

KNEBEL Right that is allowed.

MARNELL So they just need to comply with that Ordinance.

BISHOP If we remove the amendment then this picture is no longer relevant to what we are doing.

DUNLAP As far as size, height, and design it is, but the programming is the question, and that is a Code Enforcement issue.

MARNELL And it would still have to comply with that Ordinance.

SCHLEGEL Is your motion then to remove the current prohibition in the C.U.P. on rotating or flashing lights for signs on the subject property or was it meant to be more that?

MILLER What I would suggest is to approve the request provided that it meets minimum Sign Code requirements. That way you are not deleting the prohibition against the moving and flashing signs that is in the C.U.P., but you are approving the sign that he is requested, and he is saying that it can meet the Sign Code.

DUNLAP That is what I am trying to do is approve the sign that he is requesting.

BISHOP That I could support.

SCHLEGEL If that is the intent of the motion then, why are we even bothered because they can now do this sign under the Sign Code?

MILLER It would clarify the intent of the Commission, and OCI would know what the action of the Commission was, and if that is what they are after for some sort of sanction by someone else that the sign is appropriate.

DUNLAP There is no question in your mind that OCI could approve based on the square footage?

KNEBEL The square footage is no problem. It is only a 50 square foot sign.

DUNLAP I think the guy ought to have the sign, and I don't want to do something here that OCI could come back and say you can have that but it is too big.

KNEBEL I am going to have to talk to OCI, but it does not make sense to do nothing since we have gone this far.

REVISED MOTION: No signs with rotating or flashing lights shall be permitted, except that on Parcel 4 one electronic message sign on the building wall facing south not exceeding 50 square feet in size shall be permitted to change images and/or text no more often than once per second.

DUNLAP moved, **MITCHELL** seconded the motion, and it carried (13-0).

7. **Case No.: ZON2004-24** – Mid-America Auto Auction c/o Brad Phillips Request Zone Change from "SF-5" Single-family Residential to "LC" Limited Commercial to "LI" Limited Industrial on property described as;

All that part of the Southwest Quarter of Section 16, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, lying North and East of the Riverside Drainage Canal as condemned in District Court Case No. 48670 and north of the North line of Brooking By-Pass 2nd Addition and west of the West line of Interstate Highway No. 235 as condemned in District Court Case A-76777 EXCEPT the south 240 feet of the north 270 feet of the west 363 feet thereof and EXCEPT Aikman Addition, and EXCEPT the west 40 feet for highway. Generally located Northeast of the 47th Street South and Broadway intersection.

BACKGROUND: The applicant is requesting rezoning of a 16-acre unplatted tract from "SF-5" Single-family Residential and "LC" Limited Commercial to "LI" Limited Industrial. The western quarter of the site is zoned "LC" and the remaining majority of the site is zoned "SF-5". The proposed use is to accommodate expansion of Mid America Auto Auction, a wholesaler to auto dealers. The undeveloped tract is located south of 43rd Street South and approximately 300-feet east of Broadway Avenue and on the north side of Santa Fe Avenue ROW. The subject site is separate from and northwest of the applicant's existing "Auto Auction" site.

The subject site is currently a vacant field, with mature hedge on its west and north sides. The subject site is part of an area between Broadway – IH-235 – IH-135 – 47th Street South zoned mostly “LI” with “GC” zoning along the Broadway and 47th Street South frontage. The area’s Broadway and 47th Street South frontage properties are developed with strip retail, free standing restaurants, fast food restaurant, car sales lots, manufactured home sales lots, a motel, a marine dealership, a fire station and a contractors yard. Development is widely staggered from the 1920s through 1999.

The area’s interior almost exclusively zoned “LI” properties are developed as the applicant’s auto auction yard (built late 1970s and expanded in the early 1990s), a trucking company (built late 1970s) and warehouses built in the late 1970’s through the 1990s. There is also a large amount of undeveloped “LI” interior properties. The Riverside drainage channel, running northwest to southeast, splits this area between Broadway and the IH-235 – IH-135 interchanges. The drainage channel runs roughly parallel to the south side of Santa Fe Avenue, which abuts the site’s south side. The drainage channel is not maintained by the City, but by the Riverside Drainage District, which is their own taxing entity.

Development and zoning immediately adjacent to the site include single-family residences, zoned “LC” and “SF-5” across 43rd Street South on the site’s north side. A fire station and a manufactured home sales lot, zoned “GC”, abut the site’s west side. Santa Fe Avenue abuts the site’s south and southwest sides with the Riverside drainage channel running parallel to Santa Fe’s south side and an office-warehouse and undeveloped “LI” south of the channel and Santa Fe. There is also a trucking company, zoned “LI” abutting the southeast side of the site. The IH-235 – IH-135 – 47th Street South interchange abut the site’s east side.

CASE HISTORY: On January 10, 1985 the MAPC approved a requested zone change for the site, case #Z-2655, from “AA” One-family Residential and “LC” Light Commercial to “E” Light Industrial, subject to platting within a year. The platting was never completed and the case was closed August 6, 1986, with the site’s “AA” and “LC” remaining in place as the site’s effective zoning. On March 25, 1996 all zoning districts were converted by ordinance and resolution, with the site’s “AA” zoning becoming “SF-5” and its “E” zoning becoming “LI”; the site’s zoning remained essentially the same.

ADJACENT ZONING AND LAND USE:

NORTH:	“GC”, “LC” & “SF-5” contractors yard, marine sales and Street ROW	single-family residences
SOUTH:	“LI”, drainage Street ROW	warehouses, auto auction sales yard, trucking company, vacant/undeveloped land
EAST:	Street ROW	IH-135 and IH-235 interchanges
WEST:	“GC”	manufactured home, motor home sales fire station

PUBLIC SERVICES: Santa Fe Avenue is identified as street ROW on the 2030 Transportation Plan and is currently a paved and curbed two-lane street, with a 60-foot ROW, which dead ends at the subject site. 43rd Street South is identified as a street ROW on the 2030 Transportation Plan and is currently an unimproved gravel road with 40-foot of ROW. Current traffic counts are for the Broadway – 47th Street South intersection, with 24,864 ADTs west, 12,559 ADTs east, 15,084 ADTs north and 21,189 ADTs south. The site has access onto 47th Street South from Santa Fe Avenue. There has been a corridor improvement traffic study recently completed which includes the Broadway – 47th Street South – IH-135 & IH-235 intersections/interchanges. This study will be used to apply for Federal monies for improvements to these intersections/interchanges, as well as other roads in Wichita – Sedgwick County. All normal municipal services are available to the site.

CONFORMANCE TO PLANS/POLICIES :

The Wichita Land Use Guide in the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* classified the subject tract as “Industrial”. Industrial location guidelines contained in the Plan indicate that Industrial areas should be located in close proximity to support services and be provided good access to major arterials, city truck routes, belt highways, utility trunk lines, rail spurs, airports and as extensions of existing industrial uses. Industrial uses should not feed directly into local streets in residential areas. Industrial uses should be generally located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas. The site meets these criteria.

Policy considerations include adequate buffering with screening and landscaping between the site and the housing to the north, which would help mitigate the interface between the boundary of residential and the industrial uses, and are included in the “Recommendations” section.

RECOMMENDATION: Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED, subject to platting within one year, and the provisions of the Protective Overlay #142:

- (1) Retain the mature hedge along the site’s north and west sides. If the hedge comes down replace with 6-foot solid screening and meet the City of Wichita’s Landscape Ordinance requirements along the site’s west and north sides, where adjacent to residential uses.
- (2) Lighting standards shall be no more than 20 feet in height along the site’s north and west sides, and shall otherwise conform to Sec. IV-B.4 of the Unified Zoning Code

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area to the west and south of the site fronting Broadway and 47th Street South is almost entirely zoned “GC” and is developed with auto, manufactured home and marine sales lots, as well as retail strips, a motel, fire station and fast food and sit down restaurants. The interior area behind this “GC” zoning is zoned almost entirely “LI”, has undeveloped land and warehouses, a trucking company and an auto auction yard in it.

The "LI" zoning does extend to the 47th Street South frontage (southeast portion of the area), where it adjoins the IH-135 – IH-235 interchanges. This portion of "LI" zoned property is part of the previously mention auto auction yard. The exception to the interior "LI" zoned properties is the subject site's "LC" and "SF-5" zoning. The small area north of the site and between 43rd Street South, Broadway, and IH-135, is zoned and developed, west to east, "GC", with a contractor's yard and marine sales, "LC" with single-family residences and two "SF-5" lots with single-family residences. The residential uses and zoning are not suitable for this area.

2. The suitability of the subject property for the uses to which it has been restricted: The majority of the site is currently zoned "SF-5" Single-family Residential with the western remainder of it zoned "LC" Limited Commercial. The site is a field. This site is not suitable for residential development and its lack of frontage along the two arterials, Broadway and 47th Street South; make it unlikely to be developed as a commercial use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed protective overlay provisions should reduce the impact of the non-residential use on the single-family residences to the north of the subject site.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The proposed zone change conforms to the Comprehensive Plan objective for industrial development. The Protective Overlay provisions would minimize impact to the residential uses north of the site.
5. Impact of the proposed development on community facilities: Impact on public facilities should be minimal, with the exception of the additional truck traffic bringing autos onto the site and possible parking within the Santa Fe Avenue ROW during the sale days.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **MITCHELL** seconded the motion, and it carried (12-0).

❖ **PLANNING COMMISSION ITEMS**

8. **Case No.: DR2004-06** - The City of Maize seeks annexation of eligible tracts located west of and adjacent to the Balmoral Briar Addition.

The proposed annexation area falls within the City of Wichita 2010 Urban Growth area, as established in the Wichita-Sedgwick County Comprehensive Plan *Preparing for Change*, adopted and updated by the Metropolitan Area Planning Commission and the Board of County Commission in 2002. This area has not been designated as a small city growth area for the City of Maize. The Wichita-Sedgwick County Comprehensive Plan is the plan that has statutory jurisdiction over the annexation area.

The subject properties also fall outside the zoning areas of influence for the City of Maize.

It is the recommendation of staff that the Metropolitan Area Planning Commission find the unilateral annexation proposed by Resolution No. 348-04 of the City of Maize, to be not consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MARNELL moved, **MITCHELL** seconded the motion, and it carried (12-0).

9. **Other matters/adjournment.**

BOB PARNACOTT, Assistant County Counselor: We have had a request and a point of clarification involving the YMCA case that you will hear on July 8th. Clark Nelson who is representing called me, and he is under the impression that he is going to get to present some additional evidence at this next meeting. So the point of clarification needs to start with is whether the intention of the deferral was after the close of the public hearing, and that you intended only to defer in order to hear some more information from staff or to have more discussion, or whether you intended to take additional public comment at that time.

If you are intending to take public comment, he has requested 15 minutes of time rather than the typical five minutes.

DUNLAP He got it last time. Our deferral was based on their request that they have their Storm Water Engineer from Oklahoma come up and talk to them, and that is the information that we want.

PARNACOTT So you are intending to hear from that engineer from Oklahoma? That is what he is asking for. He believes his engineer is going to need 10 minutes to talk about what the findings are, and then he wants five minutes for Mr. Whetzel or the Attorney to follow -up with some other comments.

DUNLAP The only reason I am speaking here is because Commission Marnell stepped away from the bench and probably won't next time. But it would seem to me like we are still ahead of ourselves because this is not a zoning item, this is a platting item when we talk about drainage, and I let it go on last time because we had so many people here, and the media and all, but really it is not what we are going to be looking at in a zoning item.

PARNACOTT You get to a fine line there on the drainage issues. You do have a golden factor that talks about impact on community facilities, and negative impact on surrounding properties so to some extent it does, and that is the argument we are going to hear from the other attorneys. That is the relevancy of it.

DUNLAP But if we allow it at this point, if we allow the discussion on drainage during the zoning item, won't we also be giving them the opportunity to discuss drainage during the platting also?

PARNACOTT They will certainly have the opportunity in the platting process to make any comments about drainage plans and proceed.

DUNLAP I want to suggest that we don't want to do anything here that would create an opportunity for them to enter a legal action after the fact. So we need your advice on whether or not to take additional public comment other than the engineer report that we asked for.

PARNACOTT You mean the oral report or the written report, because they are also going to provide some written testimony? If that was your intention, my opinion is that you should go ahead and allow them, and then the question becomes whether you want to stay to the five minutes or if you want to take up his request to have an extended time in advance of the meeting.

DUNLAP I think we should give an extension of them; to the engineer and the YMCA.

GAROFALO Part of the motion also was to get more detailed information from the County Public Works, so I think we need to hear from them also.

MILLER The motion that Bud made was not closing the public hearing.

JOHNSON I am looking down the road here, but if somebody in opposition is going to have an engineer that is going to talk to us for 15 minutes, the applicants want to have any idea of what they are going to say, and are they going to want to defer it for two more weeks so they can have a rebuttal for that. I think the engineer should be getting with the County Engineer and a representative with the YMCA.

PARNACOTT I understand they are meeting tomorrow, and maybe by July 8th this will all be resolved.

MOTION: To grant 10 minutes for the Engineer from Oklahoma to speak solely about their finding after the review of the drainage information from the applicant and 4 minutes for rebuttal.

WARNER moved, **GAROFALO** seconded the motion, and it carried (9-0-1) **MITCHELL** abstained.

The Metropolitan Area Planning Department informally adjourned at 3:35 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2004.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)